

**LFN 2015-23**

**November 6, 2015**

# Local Finance Notice

Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

Charles A. Richman  
Commissioner

Timothy J. Cunningham  
Director

## Contact Information

### Director's Office

V. 609.292.6613  
F. 609.292.9073

### Local Government Research

V. 609.292.6110  
F. 609.292.9073

### Financial Regulation and Assistance

V. 609.292.4806  
F. 609.984.7388

### Local Finance Board

V. 609.292.0479  
F. 609.633.6243

### Local Management Services

V. 609.292.7842  
F. 609.633.6243

### Authority Regulation

V. 609.984.0132  
F. 609.984.7388

### Mail and Delivery

101 South Broad St.  
PO Box 803  
Trenton, New Jersey  
08625-0803

### Web:

[www.nj.gov/dca/divisions/dlgs](http://www.nj.gov/dca/divisions/dlgs)

E-mail: [dlgs@dca.nj.gov](mailto:dlgs@dca.nj.gov)

## Distribution

Municipal & Freeholder Bd. Clerks  
Chief Financial Officers  
Local Authority Officials  
Fire District Officials  
Auditors

## Important Changes to Certain Local Finance Board Matters – Recently Enacted Legislation

On August 10, 2015, the Governor signed Senate Bill S2454 into law as [P.L. 2015, c. 95](#). Known as the “Division of Local Government Services Modernization and Local Mandate Relief Act of 2015”, the law makes a series of changes that streamline certain Division and Local Finance Board functions, along with relieving local governments of certain mandates and allowing greater flexibility in select areas.

This Notice, part of a series of guidance documents discussing the changes enacted by this new law, pertains to matters either no longer requiring application for approval by the Local Finance Board, or that remain Board matters but are subject to new provisions.

### Changes Pertaining to Environmental Infrastructure Trust Loans

The DLGS Modernization law makes several key changes to the Environmental Infrastructure Trust (“EIT”) loan process for municipalities, counties and local authorities that will streamline the process.

#### EIT Loans Now Require DLGS Director Approval Rather than Local Finance Board Approval

Section 32 of P.L. 2015, c.95 amends [N.J.S.A. 58:11B-9](#) to require local government applications for environmental infrastructure project loans made by the EIT, or the State acting by and through the Department of Environmental Protection, to be approved by the Director of the Division of Local Government Services rather than the Local Finance Board. As such, the EIT applications of municipalities, counties and local authorities (notwithstanding the Fiscal Control Law) no longer come before the Board unless another law requires Board approval (e.g. a municipality exceeding its statutory debt limit).

[N.J.S.A. 40A:5A-6](#) requires authorities to seek Board approval for project financings; however, [N.J.S.A. 58:11B-9\(a\)\(3\)](#) now carves out a limited

exception by placing the Director in the shoes of the Board with respect to approving EIT project financings by authorities.

More detailed guidance will be issued in the near future describing the procedure to be followed for Director approval of EIT loan applications. In the interim, while a new procedure is being developed, the EIT will send applications to the Director for review and approval. EIT loan applications are not to be submitted to the Board or the Director's Office. Please contact the EIT at 609-219-8600 for information on how to proceed with your approval.

#### Non-Conforming Maturity Schedules for EIT Loans No Longer Require Local Finance Board Approval

Section 12 of P.L. 2015, c.95 amends N.J.S.A. 40A:2-26 to eliminate the requirement that the Local Finance Board approve non-conforming maturity schedules for loans made by the EIT, or the State acting by and through the Department of Environmental Protection, for environmental infrastructure projects as defined by N.J.S.A. 58:11B-3. The fact that the maturity schedule is approved by the Environmental Infrastructure Trust is now sufficient in and of itself.

#### Automatic Waiver of 5% Down Payment Now Applies to EIT Loans

Section 33 of P.L. 2015, c.95 amends N.J.S.A. 40A:2-11 to create an automatic waiver of the 5% down payment requirement where a bond ordinance is enacted for environmental infrastructure projects funded by loans made by the EIT, or the State acting by and through the Department of Environmental Protection. No Local Finance Board approval is required to waive the 5% down payment otherwise generally required for municipal and county bond ordinances if the bond ordinance exclusively funds EIT projects.

#### **Qualified Bond Act Municipalities Seeking Approvals for Other Bonding**

Certain municipalities that are or have been participants in the Qualified Bond Act program (N.J.S.A. 40A:3-1 et seq.) may be subject to Local Finance Board resolutions requiring them to seek Board approval to adopt an ordinance for future capital authorizations. For these municipalities, Section 13 of P.L. 2015, c.95 amends N.J.S.A. 40A:3-4 to statutorily lift such provisions. This means that Qualified Bond Act municipalities adopting capital ordinances not funded by Qualified Bond Act debt do not need Board approval unless otherwise required to do so pursuant to another law.

Municipalities receiving Transitional Aid are still required to obtain Division approval for capital authorizations pursuant to the terms of their Memorandum of Understanding.

#### **New Cap on Fees Charged for Financings**

Section 30 of P.L. 2015, c.95 requires that where financing fees charged by an issuing entity, or credit enhancement fees charged by a local government unit, in connection with a Local Finance Board application are proposed to be greater than 0.125 percent of the par value of the bonds to

be issued, said level of fees shall be approved by at least a two-thirds (2/3) vote of the Local Finance Board. The Board is expected to propose regulations in the near future that further clarify and define this provision.

### **Municipal Port Authority Budgets Now Approved by DLGS Director**

Section 11 of P.L. 2015, c.95 amends N.J.S.A. 40A:68A-43.1 to require that municipal port authority budgets be approved by the Director of the Division of Local Government Services, rather than by the Local Finance Board. This change brings the budget approval process for municipal port authorities in line with other authorities subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.). See [Local Finance Notice 2015-15](#) for further information on the authority budget process.

---

Approved: Timothy J. Cunningham, Director